

H.B. 18 Unemployment Compensation - Social Security Offset -- Cox, D.

UNEMPLOYMENT COMPENSATION - SOCIAL SECURITY OFFSET

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: David N. Cox

Senate Sponsor: John W. Hickman

Cosponsors:

Janice M. Fisher Steven R. Mascaró

Karen W. Morgan Mark W. Walker

Peggy Wallace

LONG TITLE

General Description:

This bill modifies employment security provisions of the Utah Workforce Services Code related to unemployment benefits and eligibility.

Highlighted Provisions:

This bill:

- extends the Social Security benefits offset of 50% against an individual's weekly unemployment benefit amount through the benefit year ending on or before July 1, 2011;

- provides that the Department of Workforce Services shall fund the Social Security offset costs from federal Reed Act moneys; and

- makes certain technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

[35A-4-401](#), as last amended by Chapters 21 and 246, Laws of Utah 2004

Be it enacted by the Legislature of the state of Utah: Section 1. Section [35A-4-401](#) is amended to read:

35A-4-401. Benefits -- Weekly benefit amount -- Computation of benefits --

Department to prescribe rules -- Notification of benefits -- Bonuses.

(1) (a) Benefits are payable from the fund to any individual who is or becomes unemployed and eligible for benefits.

(b) All benefits shall be paid through the employment offices or other agencies designated by the division in accordance with the rules the department may prescribe in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

(2) (a) An individual's "weekly benefit amount" is an amount equal to 1/26th, disregarding any fraction of \$1, of [his] the individual's total wages for insured work paid during that quarter of [his] the base period in which the total wages were highest.

(b) The weekly benefit amount may not exceed the amount determined as follows:

[(i) With respect to any individual whose benefit year commences on or after July 1, 1984, but prior to January 3, 1988, 60% of the "insured average weekly wage," disregarding any fraction of \$1, constitutes the maximum "weekly benefit amount" payable;]

[(ii) With respect to any individual whose benefit year commences on or after January 3, 1988, 60% of the "insured average fiscal year weekly wage" during the preceding fiscal year, e.g., fiscal year 1987 for individuals establishing benefit years in 1988, disregarding any fraction of \$1, constitutes the maximum "weekly benefit amount" payable;]

[(iii)] (i) With respect to [any] an individual whose benefit year commences on or after January 1, 2001, 65% of the "insured average fiscal year weekly wage" during the preceding fiscal year, e.g., fiscal year 2000 for individuals establishing benefit years in 2001, disregarding any fraction of \$1, constitutes the maximum "weekly benefit amount" payable.

[(iv)] (ii) With respect to an individual who files a claim for benefits on or after July 4, 2004, 62.5% of the insured average fiscal year weekly wage during the preceding fiscal year, disregarding any fraction of \$1, constitutes the maximum weekly benefit amount payable.

(c) (i) Except as otherwise provided in Subsection (2)(c)(ii), the "weekly benefit amount" of an individual who is receiving, or who is eligible to receive, based upon the

individual's previous employment, a pension, which includes a governmental, social security, or other pension, retirement or disability retirement pay, under a plan maintained or contributed to by a base-period employer is the "weekly benefit amount" which is computed under this

62 section less 100% of ~~[such]~~ the retirement benefits, that are attributable to a week, disregarding
63 any fraction of \$1.

64 (ii) ~~(A)~~ With respect to an individual whose benefit year begins after July 1, 2004, and
65 ends on or before July 1, ~~[2007]~~ 2011, the "weekly benefit amount" of that individual, who is
66 receiving or who is eligible to receive Social Security benefits based upon the individual's
67 previous employment, is the "weekly benefit amount" which is computed under this section
68 less 50% of the individual's Social Security benefits that are attributable to the week, but not
69 below zero.

70 ~~(B) An employer is not liable for additional benefits paid as a result of this Subsection~~
71 ~~(2)(c)(ii).~~

72 ~~(C) The department shall fund those costs from Reed Act moneys.~~

73 (d) (i) ~~(A)~~ The weekly benefit amount and the potential benefits payable to an
74 individual who, subsequent to the commencement of his benefit year, becomes or is determined
75 to be eligible to receive retirement benefits or increased retirement benefits, shall be
76 recomputed effective with the first calendar week during his benefit year with respect to which
77 ~~[he]~~ the individual is eligible to receive retirement benefits or increased retirement benefits.

78 ~~(B)~~ The new weekly benefit amount shall be determined under this Subsection (2).

79 (ii) As recomputed the total benefits potentially payable, commencing with the
80 effective date of the recomputation, shall be equal to the recomputed weekly benefit amount
81 times the quotient obtained by dividing the potential benefits unpaid prior to the recomputation
82 by the initial weekly benefit amount, disregarding fractions.

83 (3) ~~(a)~~ Each eligible individual who is unemployed in any week shall be paid with
84 respect to that week a benefit in an amount equal to the claimant's weekly benefit amount less
85 that part of the claimant's wage payable to the claimant with respect to that week that is in
86 excess of 30% of the claimant's weekly benefit amount.

87 ~~(b)~~ The resulting benefit payable shall disregard any fraction of \$1.

88 ~~(c)~~ For the purpose of this Subsection (3) "wages" does not include ~~[grants, earned or~~
89 ~~otherwise,]~~ a grant paid to the claimant as public assistance.

90 (4) (a) Any otherwise eligible individual is entitled during ~~[any]~~ a benefit year to a total
91 amount of benefits determined by multiplying ~~[his]~~ the individual's weekly benefit amount
92 times ~~[his]~~ the individual's potential duration.

93 (b) To determine an individual's potential duration, ~~[his]~~ the individual's total wages
94 for insured work paid during ~~[his]~~ the base period is multiplied by 27%, disregarding any
95 fraction of \$1, and divided by ~~[his]~~ the individual's weekly benefit amount, disregarding any
96 fraction, but not less than ten nor more than 26.

97 (5) (a) ~~[Notwithstanding any other provision of this chapter]~~ In accordance with Title
98 63, Chapter 46a, Utah Administrative Rulemaking Act, the department ~~[in its discretion]~~ may
99 by rule prescribe:

100 (i) that the existence of unemployment, eligibility for benefits, and the amount of
101 benefits payable shall be determined in the case of any otherwise eligible claimant who, within
102 a week or other period of unemployment, is separated from or secures work on a regular
103 attachment basis for that portion of the week or other period of unemployment occurring before
104 or after separation from or securing of work; and

105 (ii) in the case of individuals working on a regular attachment basis, eligibility for
106 benefits and the amount of benefits payable for periods of unemployment longer than a week.

107 (b) The rules ~~[promulgated]~~ made shall be reasonably calculated to secure general
108 results substantially similar to those provided by this chapter with respect to weeks of
109 unemployment.

110 (6) The division shall, in all cases involving actual or potential disqualifying issues and
111 prior to the payment of benefits to an eligible individual, notify the individual's most recent
112 employer of the eligibility determination.

113 (7) Upon written request of an employee made under rules of the department in
114 accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, all remuneration
115 for insured work paid to an employee during ~~[his base]~~ the employee's period in the form of a
116 bonus or lump-sum payment shall, for benefit purposes, be apportioned to the calendar quarters
117 in which the remuneration was earned.

Legislative Review Note
as of 10-20-05 9:00 AM

Based on a limited legal review, this legislation has not been determined to have a high
probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Interim Committee Note

as of 12-16-05 7:08 AM

The Workforce Services and Community and Economic Development Interim Committee
recommended this bill.

